IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

MONDAY, THE 6TH AUGUST 2007 / 15TH SRAVANA 1929

WP(C).No. 12406 of 2007(B)

PETITIONER:

---

1. V.S.ANILKUMAR, EX.DIRECTOR,
   MURUNTHAL SCB LTD.NO.1814, PERINAD P.O.,
   KOLLAM.

2. E.R.RAVEENDRAN NAIR, EX.PRESIDENT,
   MURUNTHAL SCB LTD.NO.1814, PERINAD P.O.,
   KOLLAM.

3. A.R.MOHAN BABU, EX.DIRECTOR,
   MURUNTHAL SCB LTD.NO.1814, PERINAD P.O.,
   KOLLAM.

4. K.MADHAVAN, EX. DIRECTOR,
   MURUNTHAL SCB LTD.NO.1814, PERINAD P.O.,
   KOLLAM.

5. M.VASANTHAKUMARI, EX. DIRECTOR,
   MURUNTHAL SCB LTD.NO.1814, PERINAD P.O.,
   KOLLAM.

BY ADV. SRI.R.SREEHARI

RESPONDENTS:

---

1. JOINT REGISTRAR OF CO-OP.SOCIETIES,
   KOLLAM.

2. MURUNTHAL SCB LTD.NO.1814,
   PERINAD P.O., KOLLAM REP. BY ITS SECRETARY/
   ADMINISTRATOR.

3. GOVT. OF KERALA REP. BY SECRETARY
   TO GOVERNMENT, CO-OPERATIVE DEPARTMENT,
   SECRETARIAT, THIRUVANANTHAPURAM.

ADDITIONAL RESPONDENT

4. S.NAZEERKHAN
KADAPPAVILA VADAKKETHIL
MURUNTHAL, PERINAD P.O.
KOLLAM DISTRICT

Additional respondent No.4 is impleaded vide order dtd. 30-05-07 in I.A.NO.6714/07

BY ADV. SRI.O.V.MANIPRASAD
SRI.P.K.VIJAYAMOHANAN
GOVT. PLEADER SRI.P.K.RAVIKRISHNAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN W.P.C.NO.12406/07

PETITIONER'S EXHIBITS

EXT.P1 TRUE COPY OF THE ORDER DTD. 4-10-06 ISSUED BY R2

EXT.P2 TRUE COPY OF THE CERTIFICATE DTD. 1-12-06 ISSUED BY THE BANK

EXT.P3 TRUE COPY OF THE JUDGMENT IN W.P.C.NO.31249/06 OF THIS COURT

EXT.P4 TRUE COPY OF THE JUDGMENT IN W.P.C.NO.32830/06 OF THIS COURT

EXT.P5 TRUE COPY OF THE ORDER DTD. 2-4-07 OF R3

EXT.P6 TRUE COPY OF THE COVER SEAL DTD. 4-4-07 RECEIPT NO.3236

EXT.P7 TRUE COPY OF THE ORDER DTD. 4-4-07 ISSUED BY R1

4TH RESPONDENT'S EXHIBITS

EXT.R4(A) TRUE COPY OF THE LETTER OF RESIGNATION SUBMITTED BY THIS DEPONENT TO THE PRESIDENT OF THE BANK.

2ND RESPONDENT'S EXHIBITS

EXT.R2(A) TRUE COPY OF THE LOAN REGISTER OF THE BANK PERTAINING TO MTNA NO.293/04-05

EXT.R2(B) TRUE COPY OF THE RELEVANT PAGES OF THE DISPATCH REGISTER OF R2 BANK

EXT.R2(C) TRUE COPY OF THE POSTAL ACKNOWLEDGEMENT CARDS SIGNED BY THE FIRST PETITIONER.

EXT.R2(D) TRUE COPY OF THE INSPECTION REGISTER OF R2 BANK

EXT.R2(E) TRUE COPY OF THE SHOW CAUSE NOTICE ISSUED BY THE FIRST RESPONDENT TO THE FIRST PETITIONER.

EXT.R2(F) TRUE COPY OF THE REPORT SUBMITTED BY THE BANK BEFORE R1

EXT.R2(G) TRUE COPY OF THE RESOLUTION NO.327 DTD. 16-10-06 PASSED BY THE MANAGING COMMITTEE OF R2

EXT.R2(H) TRUE COPY OF THE RESIGNATION LETTER SUBMITTED ON 23-11-06 BY K.CHANDRASEKHARA PILLAI.

EXT.R2(I) TRUE COPY OF THE RESIGNATION LETTER SUBMITTED ON 23-11-06 BY P.V.JANARDHANAN PILLAI

EXT.R2(J) TRUE COPY OF THE RESIGNATION LETTER SUBMITTED ON 23-11-06 BY S.NAZEEMKHAN

EXT.R2(K) TRUE COPY OF THE ORDER PASSED BY R1 ON 24-11-06

K.M.JOSEPH, J.

\- -

W.P.(C).No.12406 OF 2007

\- -

Dated this the 6th day of August, 2007

JUDGMENT

Petitioner challenges Exts.P1,P5 and P7. Petitioner seeks a declaration that the first respondent cannot be disqualified under Rule 44(j)(c)(1) r/w Sec.44(2) of KCS Act and Rules.

2. This is a case where by order dated 04/04/2007, a Part-time Administrator was appointed under section 33 of the Act with direction to hold election within six months. Eventhough there is prayer to quash Exts.P1,P5 and P7, learned counsel for the petitioner Sri.P.N.Mohanan limited his prayer for a direction to hold election at the earliest. He would submit that election may be ordered to be held before 04/10/2007. Ofcourse, learned counsel for the 2nd respondent Sri.O.V.Maniprasad submits that some more time is required.

3. This is a case where action is taken under Section 33 of the Act. The promotion of democracy requires that elected committee should come to power at the earliest. I do not see

how the respondent can resist the request of the petitioner to hold election before 04/10/2007. Accordingly, the writ petition is disposed of directing the second respondent to take necessary resolution within one week from today and forward it to the election commission under Rule 35(a) so that he can appoint the returning officer and hold election before 04/10/2007.

(K.M.JOSEPH, JUDGE)

sv.